IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2403 OF 2006
IN
FIRST APPEAL NO. 1485 OF 2006.

Smt.Sunita Mahadeo Bhatt. ... Applicant.
Versus.
Municipal Corporation of
Greater Mumbai. ... Respondent.

Ms.Vidya Manjrekar i/by Shri P.M.Havnur for the Applicant.

Shri J.J.Xavier for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 26th July, 2006.

P.C.:

1. Rule. Shri Xavier waives service for the Respondent.

2. Considering the findings recorded by the learned trial Judge the structure deserves to be protected till final disposal of the Appeal, subject to complying with certain conditions.

3. Hence, the Application is disposed of by the following order:

i) Till final disposal of the Appeal, the Respondent-Corporation will not demolish the offending structure on the basis of the notice dated 20th June 2000 and order dated 14th July 2000, subject to condition that the Applicant

will file an undertaking in this Court within a period of four weeks from today stating therein that the Applicant will not part with possession of the offending structure and will not carry out any additions and alterations to the offending structure without the permission of the Respondents.

ii) If the undertaking is not filed within the stipulated period, the interim relief will stand vacated.

iii) The Applicant will render necessary assistance to the Respondent-Corporation in the event the Respondent-Corporation wants to clean the drain below the offending structure.

Judge.